

**UNITED STATES DEPARTMENT OF COMMERCE**

**Herbert C. Hoover Building  
14<sup>th</sup> Street and Constitutional Avenue, N.W.  
Washington D. C. 20230**

**VILLA MARINA YACHT HARBOUR, INC.****PETITIONER**

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**CASE NUM.:CZM-2001-0529-117****JOINT APPLICATION #178****USACE NUM. 198800516(IP-VG)**

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**INFORMATIVE MOTION REQUESTING  
PRPB'S INITIAL BRIEF BE DEEMED UNTIMELY  
AND SUBMITTING DOCUMENT JUST DISCOVERED**

**TO THE HONORABLE SECRETARY:**

**COMES NOW**, Petitioner Villa Marina Yacht Harbour, Inc. ("VMYH"), through the undersigned attorney who very respectfully informs, states and moves as follows:

1. Petitioner received on April 5, 2004 Notice from NOAA granting the Puerto Rico Planning Board ("PRPB") request of a 30 day extension to file its initial brief, extending the date to May 3, 2004, although petitioner never received a copy of such request from the PRPB, and petitioner filed objection to the same when received.
2. As indicated by the Postmark on the envelope with the PRPB's Initial Brief, it was mailed past the deadline and extension given by NOAA, as it is marked May 4, 2004 (Exhibit A).
3. PRPB'S brief was mailed after the contested extension expired<sup>1</sup>, thus it should be

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<sup>1</sup> NOAA had provided a stay and had informed both parties no further extensions or stays would be granted, then the PRPB unilaterally, knowingly and specifically without Petitioner's consent, and without notification to Petitioner, requested a 30 day extension to file its brief, which was granted by NOAA before

interpreted as received late and not accepted.

4. Petitioner filed its initial brief on time and with no further extensions

5. In addition, an endorsement letter issued by the U.S. Coast Guard, essential to the discussion of the present case, that was mentioned in our previous "Informative Motion" was not delivered to Petitioner until a couple of days ago (May 11, 2004) by Ms. Ortiz of the PRPB. This letter issued by the U.S. Coast Guard, the expert agency consulted in terms of safety and navigation, was never produced to Petitioner although we had requested the same in various occasions and Petitioner requests the letter be included in its brief (Exhibit B).

Wherefore, "VMYIP" hereby request that the PRPB Brief be deemed untimely and not considered, and that the U.S. Coast Guard Letter dated October 10, 2003 be included as part of Petitioner's Initial Brief.

**RESPECTFULLY SUBMITTED.**

**In San Juan, Puerto Rico, this 20th day of May 2004.**

I hereby Certify that a copy of the present document was sent via certified mail to;

**Secretary Of Commerce**  
**United States Department of Commerce**  
**Att. Molly Holt**  
National Oceanic and Atmospheric Administration  
1305 East-West Highway, Room 6111  
Silver Spring, Maryland 20910.

**Angel David Rodríguez**  
**President**  
**Puerto Rico Planning Board**  
PO Box 41119  
San Juan, Puerto Rico 000940-1119

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Petitioner could object, thus no leniency should be provided to the PRPB who filed late.

EXHIBIT A



RECEIVED

5/17/84

SR. EDUARDO TERREN MARTINEZ  
PO BOX 9020485  
SAN JUAN, PUERTO RICO 00902-0-85



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U.S. Department of  
Homeland SecurityUnited States  
Coast GuardCommander, United States Coast Guard  
Coast Guard Section, Greater AntillesStaff Symbol: ATON  
Phone: (787) 729-4394  
Fax: (787) 729-8704  
cshellenberger@gantsec.uscg.mil1650  
Oct

United States Army Corp of Engineer  
Attn: Mr. Edwin Munoz  
400 Fernandez Juncos  
San Juan, Puerto Rico 00901-3299

Post-it® Fax Note	7671	Date	11/05/04	# of pages	1
To	Eduardo Ferrer		From	Frederic A. Ortiz	
Co./Dept.	Villa Marina Yacht Harbor		Co.	PR Planning Board	
Phone #	(787)-721-8062		Phone #	(787)-722-0289	
Fax #	(787)-721-3127		Fax #	(787)-722-2244	

Dear Mr. Munoz:

This is in reference to project Villa Marina Yacht Harbor Expansion Sardinara, Fajardo. The United States Coast Guard, Greater Antilles Section, San Juan, Puerto Rico reviewed and visited this site and found project will have no effect for vessels transiting in and out of Villa Marina Yacht Club and Puerto Chico Marina. The Coast Guard has no objection to this project.

For any additional information, please contact the undersigned or Mr. John Reyes, Aids to Navigation Office at (787) 729-5381.

Sincerely,

  
 CRAIG SHELLENBERGER

Chief Warrant Officer, U.S. Coast Guard  
Aids to Navigation Office  
U.S. Coast Guard, Greater Antilles Section  
By direction

Copy: Commonwealth of PR, Land Use Planning Subprogram

FCHA HORA

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